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**UNITED STATES DISTRICT COURT
DISTRICT OF GUAM**

IN THE MATTER OF THE ARBITRATION)
BETWEEN PACIFICARE HEALTH)
INSURANCE COMPANY OF)
MICRONESIA, INC. dba PACIFICARE)
ASIA PACIFIC,)

Petitioner,

vs.

GOVERNMENT OF GUAM,

Respondent.

Civil Case No. 04-00030

**OPPOSITION TO NOTICE
OF DISMISSAL OF PETITION TO
APPOINT THIRD ARBITRATOR**

On June 18, 2004, Petitioner filed a Petitioner for Appointment of Third Arbitrator by Court (hereinafter the "Petition"). On the same day, the Court issued an Order setting hearing on the Petition on June 24, 2004 at 9:30 a.m.

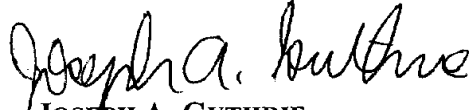
On June 21, 2004 Petitioner filed a Notice of Dismissal of Petition to Appoint Third Arbitrator (hereinafter Notice of Dismissal). In the Notice of Dismissal, Petitioner cited as his authority Fed. R. Cir. P. 41(a). The latter rule is not applicable, for it addresses dismissal of complaints. 9 USC § 6 provides that applications made and heard under the Federal

1 Arbitration Act "shall be made and heard in the manner provided by law for the making and
2 hearing of motions." LR 7.1(h)(i) provides in relevant part: Any moving party...who intends
3 to withdraw [a motion] before the hearing date, shall not later than five (5) working days
4 preceding the oral argument date, notify opposing counsel and the clerk in writing.

5 Opposing counsel was not notified five days in advance of the hearing, so the
6 petitioners Notice of Dismissal should be disregarded. See accompanying Declaration of
7 Joseph A. Guthrie.

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9 Dated this 6/21/04 day of June 2004.

10 **OFFICE OF THE ATTORNEY GENERAL**
11 **DOUGLAS B. MOYLAN, Attorney General**

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13 By: **JOSEPH A. GUTHRIE**
14 **Deputy Attorney General**